

REMARKS

This Application has been carefully reviewed in light of the Office Action electronically delivered on January 8, 2007. Claims 1-29 are pending and stand rejected. Applicant amends Claims 9 and 27. Additionally, Applicant cancels Claims 18-21 without prejudice or disclaimer. Applicant also adds new Claims 30-35, which are fully supported by the Application as originally filed. Applicant respectfully requests reconsideration and favorable action in this case.

Section 102 Rejections

Claims 1-6, 14-17 and 22-29 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,830,068 issued to Brenner et al. ("*Brenner*"). Applicant respectfully traverses these rejections. Claim 1 recites:

A method of wagering on horse races in an event having races, the method comprising:

predetermining a quantity of the event's races to be included in a wager;

allowing a player to choose a plurality of the event's races to be included in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity of the event's races;

allowing the player to select a winner for each of the chosen races, the selected winners included in the wager; and

paying the player if a predetermined number of the selected winners win corresponding chosen races.

Brenner fails to recite, either expressly or inherently, every element of Claim 1 for at least several reasons. First, *Brenner* fails to disclose "allowing a player to choose a plurality of the event's races to be included in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity of the event's races." Second, *Brenner* fails to disclose "paying the player if a predetermined number of the selected winners win corresponding chosen races." Thus, as discussed in further detail below, *Brenner* fails to recite every element of Claim 1.

First, *Brenner* fails to disclose "allowing a player to choose a plurality of the event's races to be included in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity of the event's races." In general, *Brenner* discloses a wagering system that "uses wagering machines known as 'totalisators.'" Col. 5,

ll. 35-40. The totalisators described by *Brenner* “generate wagering odds in realtime based on the wagers placed on racing events at various racetracks.” Col. 5, ll. 39-40. Additionally, the totalisators “allow[] racing fans...to view odds and place wagers on races at other racetracks.” Col. 5, ll. 56-58. The portion of *Brenner* cited by the Examiner discloses that “a user can select a desired racetrack or performance, which is a set of races at a particular track (i.e., a morning performance or afternoon performance).” Col. 4, ll. 29-32. The cited portion, however, does not disclose that “the player is required to choose a number of chosen races equal to the predetermined quantity of the event’s races” as required by Claim 1.

The cited portion also discloses that the totalisators may provide “payoff values for the winning complex wager types, including exacta, trifecta, quinella, pick-n (where n is the number of races involved in the pick-n wager), and daily double.” Applicant respectfully notes that, to the extent the Examiner is relying on the pick-n wagers described by *Brenner*, *Brenner* fails to disclose that a player is “allow[ed]...to choose a plurality of the event’s races to be included in the [pick-n] wager.” Thus, even considering the reference to “pick-n wagers,” the cited portion of *Brenner* still fails to disclose “allowing a player to choose a plurality of the event’s races to be included in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity of the event’s races” as required by Claim 1.

In response to this argument, the Examiner states that “as the player is allowed to choose from a list of wagering types and if a ‘pick-n’ wager is chosen the player is required to choose ‘n’ contestants from the various races that were part of the pick n wager.” *Office Action*, p. 9. Applicant respectfully notes that, to whatever extent this is true, *Brenner* still fails to disclose “allowing a player to choose a plurality of the event’s races to be included in the wager” (emphasis added).

Applicant respectfully notes that the Examiner appears to be conflating elements of the ‘pick-n’ bet with the more general capabilities of the system. The mere fact that the *Brenner* wagering system allows players to select races on which to bet, does not mean that *Brenner* discloses that the player is “allow[ed]...to choose a plurality of the event’s races to be included in [a ‘pick-n’] wager.” In fact, the only description the Examiner provides for any form of “pick-n” wager is the definition of the “Pick6” bets described by “TAB: How to Play -- Betting Options” (“TAB”). TAB explicitly states, however, that the races included in

the “Pick6” are chosen by TAB, the New Zealand agency that regulates horse-racing. More specifically, *TAB* states that:

Pick6 bets are only available on certain meetings. These races are selected by TAB and indicated in the Events Open for Betting area on this site.

TAB, p. 2, emphasis added.

Thus, none of the references cited by the Examiner disclose a “pick-n” wager in which the player is “allow[ed]...to choose a plurality of the event’s races to be included in the wager.” As a result, the mere reference to “pick-n” wagers in *Brenner* does not anticipate “allowing a player to choose a plurality of the event’s races to be included in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity of the event’s races” as required by Claim 1.

Second, *Brenner* fails to disclose “paying the player if a predetermined number of the selected winners win corresponding chosen races.” The portion of *Brenner* cited by the Examiner in addressing this element states only that “[i]f, following a race, a user’s wager is successful, the wagering data management system credits the user’s account accordingly.” Col. 4, ll. 40-42. *Brenner* does not, however, discuss any of the conditions under which the user’s wager would be successful. Moreover, *Brenner* fails to disclose “paying the player if a predetermined number of the selected winners win corresponding chosen races” as required by Claim 1.

As a result, *Brenner* fails to disclose every element of Claim 1. Claim 1 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 1 and its dependents.

Furthermore, several of the dependents of Claim 1 are allowable for additional reasons. For example, Claim 4 recites:

The method of wagering on horse races of Claim 1 wherein paying the player if the predetermined number of selected winners win corresponding chosen races comprises paying the player if all of the selected winners win corresponding chosen races.

As noted with respect to Claim 1, the portion of *Brenner* cited by the Examiner in addressing Claim 4 discloses only that that “[i]f, following a race, a user’s wager is successful, the wagering data management system credits the user’s account accordingly.” Col. 4, ll. 40-42. *Brenner* does not, however, discuss any of the conditions under which the user’s wager would be successful. Thus, *Brenner* fails to disclose “paying the player if all of

the selected winners win corresponding chosen races” (emphasis added) as required by Claim 4.

As a result, *Brenner* fails to recite at least this additional element of Claim 4. Claim 4 is thus allowable for at least this additional reason. Applicant respectfully requests reconsideration and allowance of Claim 4.

As another example, *Brennan* fails to recite every element of Claim 5. Applicant respectfully notes that the Examiner fails to address the limitations of Claim 5, instead rejecting Claim 5 based on the language of Claim 4. Applicant respectfully requests full consideration and allowance of Claim 5.

Although of differing scope from Claim 1, Claim 6 includes elements that, for reasons substantially similar to those discussed with respect to Claim 1, are not disclosed by *Brenner*. Claim 6 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 6 and its dependents.

Claim 9 recites:

A computer assisted method for administering betting on a plurality of races within a racing event using a computer for assistance, comprising:

publishing race information associated with the racing event to a plurality of players for use in wagers;

establishing a predetermined quantity of the event races to be included in wagers;

receiving a first selection of a subset of the plurality of races within the racing event from each of the plurality of players, the number of races in the first selection corresponding to the predetermined quantity;

receiving a second selection of predicted winners from each of the plurality of players, each of the predicted winners corresponding to at least one of the races in the first selection, the first and second selections of each player included in a wager corresponding to that player;

receiving from each of the plurality of players a bet associated with the wager corresponding to that player;

pooling at least a portion of each bet to form a pool;

receiving results from each race within the racing event;

identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection; and

sending at least a portion of the pool to one or more identified winning players.

Brenner fails to recite, either expressly or inherently, every element of Claim 9 for at least several reasons. First, *Brenner* fails to disclose “receiving a first selection of a subset of the plurality of races within the racing event from each of the plurality of players, the number of races in the first selection corresponding to the predetermined quantity.” Second, *Brenner* fails to disclose “identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection.” Therefore, as discussed in more detail below, *Brenner* fails to recite every element of Claim 9.

First, *Brenner* fails to disclose “receiving a first selection of a subset of the plurality of races within the racing event from each of the plurality of players, the number of races in the first selection corresponding to the predetermined quantity.” Applicant respectfully notes that the Examiner fails to address this element at all in the Examiner’s rejection of Claim 9. Applicant respectfully requests that the Examiner address this element if the Examiner intends to maintain any rejection of Claim 9. Nonetheless, the cited portions of *Brenner* fail to disclose “receiving a first selection of a subset of the plurality of races within the racing event from each of the plurality of players, the number of races in the first selection corresponding to the predetermined quantity” as required by Claim 9.

Second, *Brenner* fails to disclose “identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection.” The portion of *Brenner* cited with respect to this element (col. 7, ll. 35-54) merely discusses creation and management of a user account in the *Brenner* system. The cited portion does not disclose any manner of “identifying a set of winning players.” Furthermore, as noted above, *Brenner* fails to disclose receiving the claimed “first selection.” Thus, *Brenner* clearly cannot disclose “determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection” (emphasis added). Consequently, *Brenner* also fails to disclose “identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection.”

As a result, *Brenner* fails to disclose every element of Claim 9. Claim 9 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 9 and its dependents.

Claim 14 recites:

A wager in an event having races, the wager comprising a bet that a particular entry selected by a bettor in each of a plurality of the races will be a winning entry, wherein the plurality of the races comprises a predetermined number of races that are selected by the bettor.

Brenner fails to disclose, either expressly or inherently, every element of Claim 14. For example, *Brenner* fails to disclose a wager “comprising a bet that a particular entry selected by a bettor in each of a plurality of the races will be a winning entry, wherein the plurality of the races comprises a predetermined number of races that are selected by the bettor” (emphasis added). In addressing this element, the Examiner asserts only that *Brenner* discloses that the “system is capable of placing different types of wagers, and a pick-n wager would enable a winning entry if the bettor picks the winning participant in each of the races.” *Office Action*, p. 4. Nonetheless, the Examiner fails to address the remainder of Claim 14. In particular, the Examiner fails to explain how *Brenner* discloses that “the plurality of races comprise a predetermined number of races that are selected by the bettor” (emphasis added). Applicant respectfully reminds the Examiner that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). As noted above with respect to Claim 1, *Brenner* does not indicate that the “pick-n” wagers disclosed by *Brenner* represent “a bet that a particular entry selected by a bettor in each of a plurality of the races will be a winning entry, wherein the plurality of the races comprises a predetermined number of races that are selected by the bettor” (emphasis added) as recited by Claim 14.

As a result, *Brenner* fails to disclose every element of Claim 14. Claim 14 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 14.

Claim 15 recites:

A method of accepting bets on an event having a plurality of event contests, the method comprising:
selecting a predetermined quantity of the event contests for a wager;

receiving from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of the event contests; and

receiving from the user a selection of contestants corresponding to each of the selected event contests.

Brenner also fails to disclose, either expressly or inherently, every element of Claim 15. For example, *Brenner* fails to disclose “receiving from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of the event contests” as recited by Claim 15. As noted above with respect to Claim 14, *Brenner* does not indicate that the “pick-n” wagers disclosed by *Brenner* involve races selected by the bettor. As a result, to whatever extent *Brenner* discloses receiving “pick-n” bets from bettors, *Brenner* does not indicate that such “pick-n” bets include “a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of the event contests.” Thus, despite the reference to “pick-n” bets in *Brenner*, *Brenner* fails to disclose “receiving from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of the event contests” as recited by Claim 15.

As a result, *Brenner* fails to disclose every element of Claim 15. Claim 15 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 15 and its dependents.

Claim 27 recites:

Logic embodied in a computer readable medium, the computer readable medium comprising code operable to:

select a predetermined quantity of the event contests for a wager;
receive from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of event contests;
and

receive from the user a selection of contestants corresponding to each of the selected event contests; and

determine, based on whether a predetermined number of selected contestants won the corresponding selected event contests, if the user is a winner.

Brenner fails to recite, either expressly or inherently, every element of Claim 27 for at least several reasons. First, *Brenner* fails to disclose code operable to “receive from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of event contests.” As discussed above with respect to Claim 1, the portion of *Brenner* cited by the Examiner discloses that “a user can select a desired racetrack or performance, which is a set of races at a particular track (i.e., a morning performance or afternoon performance).” Col. 4, ll. 29-32. The cited portion, however, does not disclose that “the number of selected event contests correspond[s] to the predetermined quantity of event contests” (emphasis added) as required by Claim 27.

To the extent that the Examiner is again relying on the “pick-n” claims mentioned by *Brenner* to reject Claim 27, Applicant again notes that *Brenner* does not disclose a user selecting the races in the “pick-n” wager. Thus, the pick “n-wager” does not represent “a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of event contests.” As a result, despite the reference to “pick-n” bets, *Brenner* does not disclose code operable to “receive from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of event contests” as required by Claim 27.

Second, *Brenner* fails to disclose code operable to “determine, based on whether a predetermined number of selected contestants won the corresponding selected event contests, if the user is a winner.” As discussed above with respect to Claim 1, *Brenner* merely discloses generally that “[i]f, following a race, a user’s wager is successful, the wagering data management system credits the user’s account accordingly.” Col. 4, ll. 40-42. The cited portion of *Brenner*, however, does not disclose any situation in which the user’s wager would be successful “if a predetermined number of the selected winners win corresponding chosen races.” Consequently, *Brenner* fails to disclose code operable to “determine, based on whether a predetermined number of selected contestants won the corresponding selected event contests, if the user is a winner” as required by Claim 27.

As a result, *Brenner* fails to disclose every element of Claim 27. Claim 27 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 27 and its dependents.

Although of differing scope from Claim 27, Claim 25 includes elements that, for reasons substantially similar to those discussed with respect to Claim 27, are not disclosed by *Brenner*. Claim 25 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 25 and its dependents.

Section 103 Rejections

Claims 18-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Brenner*. For purposes of advancing prosecution, Claims 18-21 are canceled without prejudice or disclaimer. Applicant wishes to note that, with respect to all cancellations herein, Applicant reserves the right to pursue broader subject matter than that presently claimed through the filing of continuations and/or other related applications.

Claims 7-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Brenner* in view of *TAB*. Claims 7-8 depend from Claim 6, while Claim 13 depends from Claim 9. Claims 6 and 9 have been shown above to be allowable. Claims 7-8 and 13 are thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claims 7-8 and 13.

Claims 7-8 and 13 are also allowable for additional reasons. For example, Claim 7 recites:

The method of wagering on horse races of Claim 6 wherein the selected races are not run consecutively.

Brenner and *TAB* fail to disclose, teach, or suggest every element of Claim 7. For example, as the Examiner concedes, *Brenner* “is silent with regard to the method of wagering wherein the selected races are not run consecutively.” *Office Action*, p. 8. As the Examiner also concedes, *TAB* “do[es] not specifically state that races wagered are not run consecutively.” *Office Action*, p. 8. Nonetheless, the Examiner asserts that “[t]he idea that the races are run consecutively or not consecutively does not change the concept of a multiple event wager, which is old and well known in the art.” In response to this assertion, Applicant respectfully reminds the Examiner that “[a]ll words in a claim must be considered in judging

the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Thus, the Examiner cannot ignore the limitation by simply alleging that “[t]he idea that the races are run consecutively or not consecutively does not change the concept of a multiple event wager.” The cited art must disclose, teach, or suggest every element of the claim. Here, the proposed *Brenner-TAB* combination fails to disclose “wherein the selected races are not run consecutively” as required by Claim 7.

As a result, the proposed *Brenner-TAB* combination fails to disclose, teach, or suggest at least this additional element of Claim 7. Claim 7 is thus allowable for at least this additional reason.

New Claims

Applicant adds new Claims 30-35, which are fully supported by the Application as originally filed. Applicant respectfully requests consideration and full allowance of Claims 30-35.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge the \$300.00 fee for additional claims and any other required fees or to credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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